

John Daly
09/23/2022

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONNA POPLAR,

Plaintiff,

vs.

Case No. 4:21-cv-12568

Hon. Victoria A. Roberts

GENESEE COUNTY ROAD

COMMISSION and FRED F.

PEIVANDI, in his individual

capacity,

Defendants.

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The Deposition of JOHN DALY,
Taken at Hanson Remote,
Commencing at 8:43 a.m.,
Friday, September 23, 2022,
Before Tamora L. Thompson, CSR-5378.

Attorneys, Court Reporter & Witness appearing remotely.

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 24
 25 * * * * *

1 Remote Deposition
 2 Friday, September 23, 2022
 3 About 8:43 a.m.
 4 COURT REPORTER: My name is Tammy Thompson, a
 5 Michigan State notary public and certified shorthand
 6 reporter. This deposition is being held via
 7 videoconferencing equipment. The witness and reporter
 8 are not in the same room. The witness will be sworn in
 9 remotely pursuant to agreement of all parties. The
 10 parties stipulate that the testimony is being given as
 11 if the witness was sworn in person.
 12 JOHN DALY,
 13 having first been duly sworn, was examined and testified
 14 on his oath as follows:
 15 EXAMINATION
 16 BY MS. LEE:
 17 Q. Good morning, Mr. Daly. My name is Charis Lee, and I'm
 18 an attorney for Ms. Donna Poplar. Also on the screen
 19 you'll see Julie Gafkay. She is co-counsel, also an
 20 attorney for Donna Poplar, and Mr. Andrew Cascini, who
 21 is the attorney for Genesee County Road Commission.
 22 Today we are going to take your deposition and ask you
 23 some questions. Have you ever had your deposition
 24 taken?
 25 A. Yes.

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1 I N D E X
 2 WITNESS: PAGE:
 3 JOHN DALY
 4 Examination by Ms. Lee 4
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 11 EXHIBITS: MARKED:
 12 None marked
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1 Q. Okay. I won't bore you with long drawn-out conversation
 2 about that. I'm just going to let you know just a few
 3 ground rules that I ask that you abide by today. If we
 4 are able to take a break at any time, I ask that if I've
 5 asked you a question and you are -- you answer that
 6 question before we take a break. Just let me know.
 7 You're more than welcome, after you answer the question,
 8 if you need a five-minute break. This actually
 9 shouldn't take too long. So we hope to get you out of
 10 here as soon as possible.
 11 With that, I will just ask you to spell your
 12 name for the record.
 13 A. My full name is John H Daly III. J-O-H-N. The H is
 14 just an initial. Daly is D-A-L-Y and then roman numeral
 15 three.
 16 Q. Thank you, Mr. Daly. And you are a former employee of
 17 the Genesee County Road Commission?
 18 A. Yes.
 19 Q. What years did you work for the Genesee County Road
 20 Commission?
 21 A. From 1999 until 2018.
 22 Q. That's roughly what, 19 years?
 23 A. Yes.
 24 Q. During that time, what positions did you hold at the
 25 Road Commission?

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1 A. Throughout that period of time, I was the managing
 2 director. Additionally for three years, I also served
 3 as the HR Director. And for the last seven years, I
 4 believe, I was the Director of IT as well.
 5 Q. When you were director of IT, were you also the managing
 6 director or --
 7 A. I held the managing director position continuously from
 8 1999 until 201.
 9 Q. Okay. Perfect. Then while you were the managing
 10 director, during this time, did all directors report
 11 directly to you?
 12 A. Yes.
 13 Q. Who were the directors that reported to you at that
 14 time? I would just say really within the -- since 2016.
 15 A. Are you asking me the position or the person?
 16 Q. The position and the person, if you can remember.
 17 A. Let's see, first was during that period of time Rocky
 18 Davis and Anthony Branch served as director of
 19 maintenance. Randy Dellaposta served as director of
 20 freight maintenance at the facilities. Kermit Pitts,
 21 McKinney Jackson and Donna Poplar served as director of
 22 HR. My finance director was Lynn Luellen, and I can't
 23 remember her name right now. She is director of -- down
 24 at the Oakland County Road Commission now.
 25 Q. Okay.

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1 A. Then Coetta Adams took that position. Let's see,
 2 Director of Engineering (inaudible) the first and he was
 3 only there for about ten months, or about two years
 4 while I was there. Then Fred Peivandi became the
 5 Director of Engineering. I think that's all the
 6 directors that reported directly to me.
 7 Q. Thank you. I am going to stop my video because I'm
 8 having a little cut in and out. I don't want my
 9 bandwidth to prevent me from hearing what you have to
 10 say. I'll just stop and see if that makes it better.
 11 Thank you for your response.
 12 So during that time that you were managing
 13 director, Donna Poplar reported to you, and you say that
 14 she was the Human Resources Director. Did you hire
 15 Donna directly?
 16 A. I did.
 17 Q. When you hired Ms. Poplar, did she disclose, to you, at
 18 any time during the interview process or when she was
 19 hired, that she had a visual disability?
 20 A. She did.
 21 Q. When she disclosed that she had a visual disability to
 22 you, did she also ask for accommodations for her
 23 disability?
 24 A. She disclosed the disability, to me, during the final
 25 meeting before I made the offer to hire her.

1 Q. In the interview process, she disclosed she had a vision
 2 disability?
 3 A. Right. And she said that her vision was deteriorating.
 4 If I recall, her vision was deteriorating and that
 5 she -- so I was not surprised about three months later
 6 initially when (inaudible) it was the outside of the
 7 fence next to the building. And so she indicated that
 8 she was having some difficulties seeing where the fence
 9 was because it's a hurricane type fence that you could
 10 see through.

11 So she asked for a parking spot because of her
 12 disabled vision that was closer to the building. So I
 13 accommodated that and assigned her a parking spot that
 14 was two or three spots down from mine. Then she did ask
 15 for the addition of an another employee to HR, and that
 16 was initially made as that, first of all, that position
 17 had been there when I came in. Just been gapped for
 18 several years.

19 She asked if we could fill that position. And
 20 I indicated, to her, that if -- I inquired as to why.
 21 Initially it was because of the -- there was an
 22 increased workload due to the legal changes were taking
 23 place with regards to OPED that were mandated by the
 24 state additional reporting requirements and record
 25 keeping that was required. And I was aware of that

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1 because that was right at the end of the period that I
 2 had just served as HR director.
 3 So then in the discussions subsequent to that,
 4 I would say a month or so later, she indicated that,
 5 again, her vision was deteriorating and she needed
 6 assistance. That if this person were to be hired, they
 7 would be able to help her with things like even reading
 8 some of the documents.
 9 Q. And did you find that that was a reasonable request?
 10 A. That was a reasonable request?
 11 Q. Yes. For accommodation.
 12 A. For accommodation.
 13 Q. Yes, for her vision.
 14 A. Before it had been gapped. My intent, from my
 15 experience, is that I had -- there was the HR director,
 16 that position was (inaudible).
 17 (Answer incomplete because of
 18 Zoom technical issues.)
 19 Q. Ask you the question again.
 20 So I asked you previously, was it a reasonable
 21 -- was Donna's request for accommodation reasonable for
 22 the HR assistance?
 23 A. Yes.
 24 Q. And then you stated that the position was a position
 25 that had been previously budgeted and not filled,



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1 correct?
2 **A. No. You've got to remember, we are talking about a span**
3 **of between seven or eight years between the time that I**
4 **was hired and when I came in as manager and director and**
5 **when I was HR director. When I came in as HR director,**
6 **there were four people in the HR department. There were**
7 **the director, and then three assistants. One of those**
8 **assistants retired immediately after I got to the Road**
9 **Commission, not immediately, about a year, and that**
10 **position was nerve filled.**
11 Q. Okay. So I want to go back to a line of questioning
12 from earlier.
13 You stated that as the position for the HR
14 administrative assistant developed, Ms. Poplar requested
15 accommodations and she asked that this employee be able
16 to assist her with reading. Do you know any other tasks
17 that this HR administrative assistant was supposed to
18 assist Ms. Poplar with?
19 **A. Well, I believe in keeping in both the taking of records**
20 **and the reading of records, but that's what I recall was**
21 **that position was going to be necessary. First of all,**
22 **it was necessary whether, in my opinion, whether**
23 **Ms. Poplar was there or not because of the increased**
24 **workload.**
25 **The second thing though is filling that**

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1 **position would have been a reasonable accommodation to**
2 **her to her continuing deteriorating vision.**
3 Q. Thank you. Did you also make physical, I guess,
4 building accommodations for the HR administrative
5 assistant? Was there a special buildout done for this
6 particular employee?
7 **A. There was a -- we were moving forward with filling that**
8 **position and we were looking -- we did some changes in**
9 **the layout of HR. So it made sense when we were**
10 **planning that to accommodate that position.**
11 Q. During your 19 years of leadership at the Road
12 Commission, was HR ever placed under finance or was that
13 ever a combined department?
14 **A. To my recollection, the HR director worked directly for**
15 **me the entire time I was there.**
16 Q. Mr. Daly, you stated earlier that you hired Ms. Poplar.
17 Do you remember her credentials, or her experience, why
18 you specifically thought she was the most qualified for
19 the position?
20 **A. I remember that she had extensive experience in HR**
21 **previously with the City of Flint. She had also, I**
22 **believe, managed a non-profit at some point. She was**
23 **very familiar with the Flint operating environment. To**
24 **me, that was also an important factor.**
25 Q. During your time that you worked with Ms. Poplar, what

1 was -- were you satisfied with her work?
2 **A. Yes, very much so.**
3 Q. What was your relationship like with her?
4 **A. We had a professional relationship and it was certainly**
5 **amicable. She brought me ideas. I wasn't able to**
6 **obviously approve all of them, but if we had resources**
7 **to say do it, to implement that idea. She did make some**
8 **changes on her own almost right away that I thought were**
9 **very appropriate.**
10 **At one point, I did a tentative reorganization**
11 **in which she supervised the director of purchasing for a**
12 **period of time. I believe that was the relationship**
13 **when I left. But the director still reported to me. I**
14 **would say that we had a good working relationship.**
15 Q. What about her demeanor, as an HR director, and her
16 relationship with other employees during the time that
17 you worked with Ms. Poplar, would you say that she was a
18 fair and impartial HR director?
19 **A. I believe that to be true. The reason I do is because I**
20 **never had a complaint about her from either the -- from**
21 **other department heads or from an employee. So I would**
22 **believe that her working relationship with them was as a**
23 **professional one.**
24 Q. During the time that you were in leadership at the
25 Genesee County Road Commission, you did work with and

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1 supervise Fred Peivandi, correct?
2 **A. I worked with him and I coordinated the supervision of**
3 **Fred. One of the things that makes the position of**
4 **county highway engineer different than all the rest of**
5 **the department heads is, by statute, that position is**
6 **appointed by the board rather than the manager director.**
7 **Fred worked in that capacity, worked for the**
8 **board, and we had a relationship in which we coordinated**
9 **things. I handled the administrative side and he**
10 **handled the engineer side.**
11 Q. While you were in leadership at the Road Commission, did
12 you ever receive complaints about Mr. Peivandi, while
13 you were there, about his working relationship with
14 others?
15 **A. I did.**
16 Q. Do you remember the basis of those complaints?
17 **A. The basis of those complaints were that he was being**
18 **unreasonable and unfair with some of his requirements.**
19 Q. Thank you, Mr. Daly.
20 If you don't mind, now I'd like to take a
21 brief five- or ten-minute break. It's 9:02. If we
22 could come back at 9:12. And then if I have any
23 additional questions, I will ask at that time. If not,
24 I'll allow Mr. Cascini, the Road Commission's attorney
25 to ask you some questions, okay?

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1 A. Okay.

2 (A short recess was taken)

3 BY MS. LEE:

4 Q. Thank you, Mr. Daly, for allowing me to take that quick
5 break. We are back on the record now. I do have just a
6 few more questions that I want to ask you before I turn
7 it over to Attorney Cascini to ask you a few questions.

8 I wanted to go back to your testimony where
9 you mentioned that Ms. Poplar did bring changes to you
10 and ideas to you. You stated before that you were
11 unable to implement them all. I'd like to ask you how
12 did Ms. Poplar respond when you couldn't maybe implement
13 a recommendation or did not take her advice on a
14 particular matter?

15 A. She received it in a professional manner. One of the
16 things that I enjoyed about working with Ms. Poplar, if
17 we did get into something when she brought it to me and
18 I wasn't able to implement it, she would even go back
19 and take another look and say can we do it a little bit
20 differently. Can we move something different so we can
21 accomplish this.

22 On one occasion where we were looking at some
23 reporting that HR was having to do, initially the way
24 she suggested we couldn't do, she went back -- and I
25 told her that. She went back on her own initiative and

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1 repackaged it. Came back to me and it was a more
2 efficient process and we were able to implement it. I
3 never -- her response, whenever I had to deny her
4 request, was simply one of professionalism. She
5 understood the funds were limited.

6 Q. Okay. So you never -- so you saw, even in your
7 response, that you couldn't to something, you saw that
8 she took initiative at times to see if she could assist
9 the Road Commission?

10 A. Absolutely.

11 Q. Okay. Then did you ever experience, while you were the
12 managing director, a power struggle with Ms. Poplar in
13 the sense that she felt that her recommendations, or
14 suggestions, should be that most importance?

15 A. No.

16 Q. Okay. During the time that you all worked together,
17 Ms. Poplar was respectful to you?

18 A. Yes, she was.

19 Q. And did she ever leverage her position as the HR
20 director against you as the managing director before the
21 board or any other employees?

22 A. No.

23 Q. Did Ms. Poplar accept your authority as managing
24 director?

25 A. From my perspective, absolutely.

1 Q. Did Ms. Poplar follow the directives that you gave her?

2 A. Yes.

3 Q. Was Ms. Poplar ever insubordinate under your leadership
4 at --

5 A. No.

6 Q. Okay. Thank you so much, Mr. Daly. I appreciate your
7 time today. And now I'll allow Attorney Cascini to ask
8 you some questions if he wishes to do so.

9 MR. CASCINI: Thank you, Charis.

10 EXAMINATION

11 BY MR. CASCINI:

12 Q. John, I don't think I need to introduce myself. My name
13 is Andrew Cascini. I'm representing the defendants in
14 this particular lawsuit, including the defendant the
15 Genesee Road Commission. I do have some questions I
16 would like to ask you. If you have any trouble hearing
17 me, at any point in time, or if you don't understand the
18 question, please interrupt me and tell me. I won't hold
19 it personally. I promise.

20 A. Okay.

21 Q. I'd like to talk a little bit about the vacant position
22 in HR that you referred to earlier. You mentioned that
23 at some point during your tenure as managing director
24 there was a position in the HR department that was being
25 held vacant and non-budgeted; is that correct?

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1 A. That is correct.

2 Q. Describe the circumstances upon which that position
3 became vacant and it was held as non-budgeted.

4 A. The position was filled when I came into the Road
5 Commission in December of '99. As I recall, the
6 incumbent, at that time, had been in there for at least
7 a year or two. She had been a long-term employee, but
8 had moved into that position previous to my arrival.

9 About a year after I got there, she elected to
10 retire. By this time, it's about 2002, 2003, I could
11 see that we were going to have a problem ahead
12 economically not just with the HR, but with the road
13 commission funding generally. Just because of the way
14 the committee was going, I put a hiring freeze on. That
15 hiring freeze stayed on for about six or seven years.

16 The position after that was subsequently never
17 filled. We wouldn't have filled it. The driving force,
18 from my perspective, was the increased workload that was
19 being mandated by the State with regards to OPED,
20 medical care for current employees. And those
21 requirements were what were driving, taking a really
22 good look at that position. That was the reason,
23 frankly, that when I was serving as the HR director, I
24 really saw there was a need to fill that and provide
25 more administrative support for the director of HR.



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1 Q. Excellent. Let me try to break down that answer. There
2 is a lot going on in that, and I want to make sure I
3 understand each step.

4 You come into the managing director position
5 about 1999. That position that we are talking about was
6 just called that, position X in the HR department,
7 that's filled at that point, right?

8 A. Yes.

9 Q. Then there is a period of time thereafter where the
10 person who was filling position X, the administrative
11 assistant position where that person decided the leave
12 the Road Commission; is that correct?

13 A. That's correct.

14 Q. Approximately when did that occur?

15 A. That occurred, as I recall, it occurred around late
16 2002, early 2003.

17 Q. Okay. Then you mentioned that it's held vacant, but
18 non-budgeted for a period, you told me, seven or eight
19 years. Approximately what span was that position held
20 vacant, but non-budgeted?

21 A. It was never -- let me back up. For the first three
22 years of that, three or four years of that to '08, it
23 was vacant and budgeted. Then around 2010, I believe I
24 made a decision that we are really not -- we have done
25 without it this long. About the same time that I'm

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1 making that decision that we're going to fund that
2 position, take it out of the budget, that was when the
3 State started coming in with their additional mandates
4 for reporting, so the need for that position resurfaced.

5 Q. So we have a span of time where, at first, you decide to
6 take it out of the budget as cost saving measure.
7 You're like, we have been working without it for a long
8 time, maybe we don't need this position. But then, in
9 your estimation, a need for the position to become
10 filled again arises?

11 A. That's correct.

12 Q. Approximately when did that need, in your perception,
13 arise?

14 A. I started seeing it when -- during the period of time
15 that I was the serving as the HR director. In fact, to
16 be frank, the reason that I decided -- that I felt we
17 needed -- I served as HR director. One of the other
18 conclusions I came to during that time was workload was
19 increasing. The reporting requirements were increasing
20 from the State that we had to do. That we really needed
21 to have the full-time HR director.

22 Q. Got it.

23 A. So that all happened probably up around, I'd say, 2015.
24 2014, 2015.

25 Q. Okay. So you mentioned that because of the increase

1 reporting requirements that were being implemented at
2 the State level, you decided hey, I think that we need
3 to bring an HR director back. Was that also the same
4 period of time where you decided, I think we might need
5 to fill this administrative assistant position again?

6 A. It is.

7 Q. This is all before Donna Poplar is hired, before you
8 even have an HR director; is that right?

9 A. Before we had a full time -- we had, when I first got
10 there, we had, for about the first eleven years I was
11 there, full-time HR director.

12 Q. So during the period of time where there was a gap
13 between HR directors and you were serving as the HR
14 director?

15 A. Yes, that's correct.

16 Q. And let me make sure I get the timeline right. We have
17 the gentleman you mentioned who served as HR director
18 for about the first decade of your tenure that was
19 Kermit Pitts. You referred to him earlier; is that
20 right?

21 A. That's correct.

22 Q. Then there was the interim period for about three years
23 you served as HR director?

24 A. Yes.

25 Q. Then after that, it was the first HR director full time

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1 proprietary HR director was McKinney Jackson, correct?

2 A. That is correct.

3 Q. And then after that, she didn't serve for a very long
4 period of time; is that correct?

5 A. Right. About two years, couple of years.

6 Q. Then Donna Poplar was hired. Do you recall when Donna
7 Poplar was hired?

8 A. Not exactly.

9 Q. If I told you it was October of 2016, would that jibe
10 with your recollection of approximately being correct?

11 A. That would jibe with my approximation.

12 Q. Fair enough. I understand it's one job ago and also
13 five or six years ago. Sometimes these things can be
14 difficult to remember. It's okay to approximate in that
15 regard. But in any event, the question I want to make
16 clear for the record, had you made the determination
17 that the HR administrative position, the one that had
18 previously been held, vacant and non-budgeted should
19 come back, did you make a determination before or after
20 Ms. Poplar was hired as the full-time HR director?

21 A. I had made the decision that it was needed. It looked

22 like it was needed. I was particularly looking at
23 during the McKinney Jackson's tenure and had started to
24 move forward when Donna came back. I guess the idea
25 that we needed it as being sort of like warm jello over

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1 a period of about three really solidified that we needed
2 an addition.

3 Q. To take that analogy forward, you made the decision
4 prior to Donna being there, but then the plan about what
5 the job would entail exactly took shape during Donna's
6 tenure?

7 A. That's correct. That's a good assessment.

8 Q. Got it. So you did mention that when Donna Poplar was
9 first hired, during the interview process, Donna Poplar
10 disclosed to you that she had a vision disability,
11 right?

12 A. That is correct.

13 Q. And she asked for accommodation and that was the parking
14 spot situation that you had described earlier?

15 A. Yes.

16 Q. She had had trouble parking far away from the building
17 and wanted to park closer in order to make sure that she
18 was able to see the path between her parking spot and
19 the building?

20 A. She wanted to park closer.

21 Q. Sorry. Maybe I misstated that. She wanted to park
22 closer to the path between her parking spot and the
23 building, was closer?

24 A. Yes.

25 Q. I understand. After she began in her position, you

1 should be created, we are talking about six months after
2 she hired when she first brought it up to you. What
3 were the reasons, as you best recall them, that she
4 explained she thought that position was necessary?

5 A. Her principal reasons were the ones I had eluded to was
6 to make the department more efficient and to better make
7 us more responsive to the deadlines that the State was
8 imposing on this, both with regards to record keeping
9 and with regards to reporting to the State what we were
10 doing.

11 Q. Okay. Now when did your time with the Road Commission
12 end approximately?

13 A. My physical time with the Road Commission ended in
14 November of '17. I was on administrative leave until
15 April of '18.

16 Q. Okay. So just for purpose of timeline, Donna Poplar
17 gets hired late 2016. She raises the issue of needing
18 HR administrative assistant, you said, about six months
19 later. So we are talking kind of early to mid 2017. By
20 November of that year, that's when your, I would say,
21 physical attendance at the job ends. Is that an
22 appropriate timeline in all three phases?

23 A. That's an appropriate timeframe.

24 Q. You said -- you mentioned that when she first brings up
25 the issue of the HR administrative assistant position

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1 mentioned that she began to ask for the creation of the
2 HR administrative position; is that correct?

3 A. That is correct.

4 Q. Approximately how long after she was hired did she begin
5 to ask for the creation of that HR administrative
6 assistant position?

7 A. I would say approximately six months. I mean, one of
8 the things that I thought was interesting was I had not
9 shared with Donna -- I did not share with Donna my
10 conclusion about that position that I wanted with the
11 new HR director coming on board. I wanted to let her
12 find her way about what she thought.

13 Q. So she, after being in the job for a few months, came to
14 you and said I think that I need an HR administrative
15 person. You already testified, sir, that you made the
16 prior determination that an HR administrative person was
17 necessary. So you were thinking that those two
18 suggestions were beginning to harmonize; is that right?

19 A. Right. I wanted to wait until I had somebody. My
20 experience in HR was limited to that period of time when
21 I was serving as interim director. I wanted to let
22 someone who had a great deal of HR experience see the
23 situation and reach their own conclusions.

24 Q. I see. When Donna shared, for you, those reasons that
25 she believed an HR administrative assistant position

1 being created, that she is doing it for reasons of
2 operational efficiency. In fact, the same reasons that
3 you kind of come to the conclusion we need another
4 person back in here?

5 A. That's correct.

6 Q. You also mentioned, during your direct examination
7 testimony, however, that eventually there come to be
8 some discussions about more the role of that position,
9 how it's used to accommodate her visual disability or
10 that it could help her with her visual disability; is
11 that right?

12 A. That's correct.

13 Q. Approximately when -- we have just laid out a rough
14 timeline. When did those reasons come into play from
15 Donna about the creation of the position?

16 A. I'd say they came in probably about 30 to 45 days after
17 she suggested it.

18 Q. Okay. So it's -- at first it's the operational
19 efficiency. And then about a month, possibly month and
20 a half later she starts saying also this could be used
21 to accommodate the visual disability?

22 A. As I recall, that's a fair assessment of the timeframe.

23 Q. Okay. Did she ever, at any point in time, tell you that
24 she needed this person or needed a position that was
25 exclusively and solely devoted to assisting her with her



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1 visual disability?

2 A. No.

3 Q. In fact, you had envisioned that the position that we
4 are talking about here, the HR administrative position,
5 you thought that was a necessary position before you
6 even knew that you were going to have an HR director who
7 happened to have visual disabilities, right?

8 A. That is correct.

9 Q. During your tenure, was the HR Administrative Assistant
10 position ever actually created?

11 A. We relied on the position description.

12 Q. You relied on the position description that had existed
13 from back when it was being held vacant; is that right?

14 A. Correct.

15 Q. Okay. Was the position a part-time or a full-time
16 position when you decided to re-budget it?

17 A. When we decided to -- when we decided to re-budget it --
18 let me back up.

19 The position, when I first got here as it had
20 unfolded, was a full-time position. Because of the cost
21 constraints and because of the fact that it had been so
22 long since the position had been filled, I looked -- my
23 first take was a part-time position at a part-time level
24 and then see how that transpired vis-a-vis the
25 efficiency of the department.

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1 Q. Okay. So eventually during your tenure, so I'm only
2 asking for that period of time because afterward, after
3 you leave, then there is a change in leadership over
4 there. But during your tenure, did that administrative
5 position become budgeted?

6 A. No.

7 Q. Okay. Was there a proposal for it to be budgeted?

8 A. No.

9 Q. So you and Donna had independently come up with the idea
10 that you needed to budget a position. Had you remained
11 in place as managing director -- I'm asking you a
12 hypothetical question now.

13 Did you have the intent in the plan to budget
14 that position in the future?

15 A. I actually had the intent to budget that position when I
16 left. Remember, I left in November of '17. Our fiscal
17 year starts first of October, so my intent had been to
18 budget. But in the confusion that was surrounding
19 around the Road Commission, that didn't make it into the
20 budget. My intent had been had I stayed, I would have
21 budgeted that position.

22 Q. Would you have budgeted that position in October of 2017
23 or at the next available opportunity as a part-time or a
24 full-time position?

25 A. I would have budgeted it as a part-time position.

1 Q. Little bit earlier you provided some testimony about a
2 buildout that happened in the HR department; is that
3 right?

4 A. Right.

5 Q. Pardon my ignorance, buildout, what are we talking
6 about; are we talking about an expansion of physical
7 premises?

8 A. No, no. It was, I guess, a restructuring of the
9 existing space allocation.

10 Q. Okay. When you say space allocation, I'm not trying to
11 belabor the point. The actual physical space where the
12 HR people work, the office space?

13 A. Right. It was at the time that (inaudible) fall under
14 HR. There was -- the purchasing was located immediately
15 next door to HR. And as I recall, the "buildout" was
16 removal of a wall between HR and purchasing as well as
17 opening up some the spaces for access -- for employee
18 access during the A2 to get into HR.

19 Q. The testimony that I have here, and this is my writing.
20 Please do not let me put words in your mouth. My
21 recollection of your testimony was that some of those
22 buildout changes were done to "accommodate that
23 position". I believe that you were referring to the HR
24 Administrative Assistant position. Is that accurate?

25 A. Yes.

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1 Q. When you say accommodate that position, do you mean to
2 make a physical space for the HR Administrative
3 Assistant?

4 A. Yes.

5 Q. You're not saying that the buildout was performed in
6 order to accommodate Donna Poplar's visual disability?

7 A. No.

8 Q. Understood. Okay. You mentioned that -- well, strike
9 that.

10 You served as managing director since 1999.

11 So you were with the Genesee County Road Commission for
12 a long time, right?

13 A. Almost 19 years.

14 Q. Almost 19 years. In fact, the during that period of
15 time, Mr. Peivandi, the current managing director and
16 then the director of engineering, was he there during
17 that entire time?

18 A. Yes.

19 Q. So you worked with Fred from 1999 to 2018, right?

20 A. No. Okay.

21 Q. Okay. If you could clarify, what were the periods where
22 that did not overlap?

23 A. Fred -- well, Fred when I got there, Fred was not the
24 county highway engineer.

25 Q. Okay.



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1 A. But became the county highway engineer like, I want to
2 say, '14 or '15. That was the point at which I started
3 working with him directly.

4 Q. Prior to him becoming the county highway engineer, he
5 was internally within the administration, within the
6 engineering department however; is that right?

7 A. Yes, that is correct.

8 Q. So I know how the statute works. But let's talk about
9 it for a second. We have got this position that is
10 required by statute for there to be county highway
11 engineer that the board has the sole authority and
12 discretion to appoint, right?

13 A. Yes, that is correct.

14 Q. Position that needs to be filled. Statute makes it
15 happen?

16 A. Yes.

17 Q. Separately however, you have an administration where you
18 have got engineer employees within the GCRC, right?

19 A. Yes.

20 Q. So the two maybe co-term or co-extensive, they may exist
21 to be the same person. They could be, in theory, two
22 different people. You could do it 100 ways under the
23 sun, right?

24 A. There are many different ways to implement that.

25 Q. Okay. Fred had been continuously employed in the

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1 engineering department since 1999, right?

2 A. Yes.

3 Q. Across that 18-year period, did you come to know Fred
4 professionally?

5 A. Yes.

6 Q. Would you say you knew him pretty well? 18 years is a
7 long time to work with someone.

8 A. I think first, I would say that Fred is an exceptional
9 engineer. Probably one of the best engineers I have
10 ever worked with.

11 Q. During that period of time, did you ever see anything,
12 hear anything or have anything that generated the
13 opinion that Fred either had a problem with or held
14 animus towards African Americans, their race, I should
15 say? Not particular people, but African Americans as a
16 race.

17 A. I had a complaint -- Oh Lord, it would have to have been
18 like 2010, 2012, something somewhere in that timeframe,
19 the early part of the decade from Kim Day who had been
20 an engineering inspector about how she felt that she was
21 at the "end of her career". And the reason she couldn't
22 get promoted was because of the fact -- one of the
23 factors that she felt she couldn't get promoted was that
24 she was an African American.

25 Q. Is Kim Day still an employee, to the best of your

1 knowledge, with the Road Commission?

2 A. She is.

3 Q. And is she currently a supervisor with the Road
4 Commission in the engineering department, to the best of
5 your knowledge?

6 A. No, she is not.

7 Q. She is not supervisor in the engineering department?

8 A. No.

9 Q. What position, to your best of your knowledge, does she
10 occupy within the engineering department?

11 A. I don't believe she holds a position within the
12 engineering department.

13 Q. You caught me. You're right. I meant to say
14 maintenance department. Perhaps my brain isn't firing
15 correctly.

16 Is she currently, to the best of your

17 knowledge, a supervisor in the maintenance department?

18 My apologies, Mr. Daly.

19 A. No problem. Yes, she is.

20 Q. Okay. Did you ever come to observe any instances
21 personally or see any examples where you believed that
22 Mr. Peivandi was animus towards African Americans
23 because of their race?

24 A. I did not.

25 Q. You mentioned, at one point in time, that you and Donna

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1 Poplar worked together on a tentative re-organization of
2 the Road Commission. You said something about there
3 being a change in supervision of the Department of
4 Purchasing; is that right?

5 A. That is correct.

6 Q. Can you describe, for me, a little bit about what that
7 tentative re-organization entailed?

8 A. It entailed looking at -- purchasing had previously
9 worked under finance. There were difficulties
10 communicating with, then, Finance Director Melissa
11 Williams. That was the name I couldn't remember early
12 on in the position. Melissa Williams, the finance
13 director with the purchase coordinator. I did not feel
14 it appropriate to move the purchasing coordinator to
15 where they were working under my supervision because
16 that would have made them a de facto department head.

17 So I looked if that was right at the time that
18 Donna was coming as HR director. So I made a little --
19 since they were -- purchasing and HR were literally
20 within about eight feet of each other physically, I
21 re-assigned that function to HR.

22 Q. It had been, prior to, under finance and then you
23 decided to move it to HR at that point in time?

24 A. Correct.

25 Q. Okay. John, I have taken up enough of your time here.



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1 I don't have anything further.

2 MR. CASCINI: Charis and Julie, do you have
3 any further questions for this witness?

4 MS. LEE: I do. Thank you.

5 RE-EXAMINATION

6 BY MS. LEE:

7 Q. Just a clarification. Mr. Daly, you mentioned in your
8 testimony earlier that Ms. Poplar, when she notified you
9 of her vision disability, she stated -- Ms. Poplar
10 stated that her vision was deteriorating, correct?

11 A. Yes. Well, it was already bad. But it wasn't a stable
12 condition. That it would probably continue to
13 deteriorate.

14 Q. And did she make you aware that she could potentially go
15 blind?

16 A. She did.

17 Q. At the time that you provided Ms. Poplar a parking sign
18 as an -- or parking spot as an accommodation, was she
19 driving?

20 A. She was driving. But that accommodation to the parking
21 spot was made very early on in her career at the Road
22 Commission -- during the time I was at the Road
23 Commission. And one of the things that I noticed
24 because of the proximity of her parking spot to mine was
25 that as time went on, more and more she was being driven

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1 by someone. And when I checked into it, why was it
2 vacant, I found out that Donna was having someone drive
3 her to work and pick her up from work.

4 Q. So I'm sorry. You cut out a bit.

5 You said you noticed that someone was driving
6 her to work?

7 A. And picking her up from work, I assume.

8 Q. Okay. You inquired into it and what was the -- what did
9 you find out?

10 A. I found out -- I asked Ms. Poplar about it. She
11 explained, to me, that she was having problems. This
12 was as I recall, it happened during the wintertime. It
13 was darker, longer hours of darkness when she come in.
14 It would be dark and when she would leave it would be
15 dark. She was having trouble seeing. So she was having
16 someone else take her to and from work on many days.

17 Q. So did this correlate around the time in which
18 Ms. Poplar began to ask you for the HR administrative
19 assistant to assist her?

20 A. Can you repeat the question?

21 Q. Sure. You mentioned that you noticed Donna was not
22 driving to work.

23 A. Yes.

24 Q. You inquired about it?

25 A. Yes.

1 Q. When you inquired about it, was this -- during this

2 particular timeframe, was this around the same time that
3 Ms. Poplar was requesting to have a reader or requesting
4 additional accommodations from you?

5 A. It's about the same time. I'm not sure what happened
6 first. I don't recall that portion of it, but it's
7 about the same.

8 Q. So you have clarified, for us, that Ms. Poplar's vision
9 was deteriorating. She had an issue coming to you and
10 requesting accommodations regarding her vision. And
11 that this time -- all of this is going on while you were
12 there at the Road Commission.

13 So as far as you know, Ms. Poplar's vision was
14 deteriorating and she did need accommodations regarding
15 her deteriorating vision?

16 A. That's correct.

17 Q. Okay.

18 MS. LEE: That's all from me. I don't have
19 any further questions.

20 Thank you, Mr. Daly. I appreciate your time
21 today. I know my co-counsel, Julie Gafkay does as well,
22 and Attorney Cascini. So thank you.

23 THE WITNESS: We are concluded now?

24 MR. CASCINI: We are concluded. I have
25 nothing further for you either, John. Appreciate your

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1 time and also appreciate you working with us on the
2 technology side. Thank you so much, sir.

3 THE WITNESS: No problem.

4 (The deposition was concluded at 9:45 a.m.)

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1 CERTIFICATE OF NOTARY

2

3 STATE OF MICHIGAN)

4) SS

5 COUNTY OF OAKLAND)

6 I, Tamora L. Thompson, Certified Shorthand

7 Reporter, a Notary Public in and for the above county

8 and state, do hereby certify that the above deposition

9 was taken before me at the time and place hereinbefore

10 set forth; that the witness was by me first duly sworn

11 to testify to the truth, and nothing but the truth, that

12 the foregoing questions asked and answers made by the

13 witness were duly recorded by me stenographically and

14 reduced to computer transcription; that this is a true,

15 full and correct transcript of my stenographic notes so

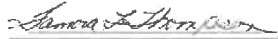
16 taken; and that I am not related to, nor of counsel to

17 either party nor interested in the event of this cause.

18

19

20



21 Tamora L. Thompson CSR 5378

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